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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/747,937

12/27/2000

Steven D. Curtin

CURTIN 16

3480

47396

7590

07/09/2009

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EXAMINER

SHIBRU, HELEN

ART UNIT

PAPER NUMBER

2621

NOTIFICATION DATE

DELIVERY MODE

07/09/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@hittgaines.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/747,937	<b>Applicant(s)</b> CURTIN, STEVEN D.	
	<b>Examiner</b> HELEN SHIBRU	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,8,10,12,13,15,17,19,20 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6,7,9,11,14,16,18, and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/19/2009 has been entered.

### ***Response to Amendment***

2. The amendments, filed 06/19/2009, have been entered and made of record. Claims 1, 3, 5, 6, 7, 9, 11, 14, 16, 18, and 21 are pending, and claims 2, 4, 8, 10, 12-13, 15, 17, 19-20, and 22 are withdrawn.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3, 5, 6, 7, 9, 11, 14, 16, 18, and 21 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5, and 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Go (US Pat. No. 5, 936, 786) in view of Nagasawa 9US Pat. No. 5,877,906).

Regarding claim 1, Go discloses an electronic write protect apparatus for storage media (see figure 3) comprising:

at least one record element for writing information to a given magnetic storage media (see claim 1 where it teaches a recording means for writing information on recording medium, tape);

a pre-existing electronic information signal detection element to read a pre-existing electronic information signal stored on said given magnetic storage media (see claims 1 and 2 where Go recites signal detecting means for detecting the presence or absence of a control pulse from a recording medium),

a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media (see abstract, col. 1 line 53-67, col. 2 line 16-col. 3 line 39, claims 1-6, recording is only performed when the control pulse is not detected by the signal detecting means, and if control pulse is detected recording is deactivated to prevent unintentional erasure of the information recorded on the recording medium).

claim 1 differs from Go in that the claim further requires the said deactivation occurring at or about a time of occurrence of said detection of said pre-existing signal.

In the same field of endeavor Negasawa teaches deactivating recording operation at or about a time of detecting pre-existing information signal (see figure 11 steps 306, 310 and 311 where the prior art teaches deactivating a recording operation when the remaining amount of the video tape of the video tape cassette is the set value X or greater, see also col. 13 lines 20-26 and

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col. 14 lines 1-13). See also figure 13 steps 362-363, figure 14 steps 405, 407 and 410, figure 15 steps 505, 507 and 508. Therefore in light of the teaching in Nagasawa it would have been obvious to one of ordinary skill at the time the invention was made to modify Go by providing a deactivating operation at a time of detecting a pre-existing or pre-set signal in order to avoid loss of data.

Regarding claim 3, Go discloses at least one record element is attached to a spinning element (see figures 1 and 3, video tape is attached to a spinning element).

Regarding claim 5, Go discloses pre-existing electronic signal detection element is attached to said spinning element (see claims 1 and 2 where Go recites signal detecting means for detecting the presence or absence of a control pulse from a recording medium wherein the recording medium is attached to a spinning element).

Regarding claim 6, Go discloses the said given magnetic storage media is a video tape (figure 1, col. 1 lines 16-30, and col. 2 lines 18-23).

Regarding claim 7, Nagasawa discloses magnetic tape storing digital information (see col. 3 lines 53-65, col. 18 lines 23-31 and lines 38-46).

6. Claims 1, 3, and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurihara et al. (US Pat. No. 6,442,108) in view of Go (US Pat. No. 5, 936, 786) and further in view of Nagasawa (US Pat. No. 5, 877, 906).

Regarding claim 1, Kurihara discloses an electronic write protect apparatus for storage media (see figure 2) comprising:

at least one record element for writing information to a given magnetic storage media (see figure 2, recording and tape 15);

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a pre-existing electronic information signal detection element (the CPU performs the process shown in figure 6 which includes S1-6) to read a pre-existing electronic information signal (the pre-existing electronic signal is previously recorded data, audio, song title, or count) stored on said given magnetic storage media (see figure 6, CPU determine if the tape is blank or not, i.e. CPU determines whether or not previously recorded audio data (pre existing signal) can be found in the tape),

Claim 1 differs from Kurihara in that the claim further requires a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media.

In the same field of endeavor Go discloses a record deactivation circuit to prevent recording on said given magnetic storage media when said pre-existing electronic information signal detection element detects said pre-existing electronic information signal stored on said given magnetic storage media (see abstract, col. 1 line 53-67, col. 2 line16-col. 3 line 39, claims 1-6, recording is only performed when the control pulse is not detected by the signal detecting means, and if control pulse is detected recording is deactivated to prevent unintentional erasure of the information recorded on the recording medium by confirming that the portion on which the information is recorded is a blank portion and recording new information on the blank portion). Therefore in light of the teaching in Go it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kurihara by including an activation and deactivation circuit in order to prevent essential recorded information from being erased.

Claim 1 further differs from the above combination in that the claim further requires the said deactivation occurring at or about a time of occurrence of said detection of said pre-existing signal.

In the same field of endeavor Nagasawa teaches deactivating recording operation at or about a time of detecting pre-existing information signal (see figure 11 steps 306, 310 and 311 where the prior art teaches deactivating a recording operation when the remaining amount of the video tape of the video tape cassette is the set value X or greater, see also col. 13 lines 20-26 and col. 14 lines 1-13). See also figure 13 steps 362-363, figure 14 steps 405, 407 and 410, figure 15 steps 505, 507 and 508. Therefore in light of the teaching in Nagasawa it would have been obvious to one of ordinary skill at the time the invention was made to modify the above proposed combination by providing a deactivating operation at a time of detecting a pre-existing or pre-set signal in order to avoid loss of data.

Regarding claim 3, Kurihara discloses at least one record element is attached to a spinning element (see figure 2, components 15, 27, 29 and 30).

Regarding claim 5, Kurihara discloses pre-existing electronic information signal detection element is attached to said spinning element (see figure 2, components 15, 26, and 27).

Regarding claim 6, Kurihara discloses the said given magnetic storage media is a video tape (see figure 2 and col. 3 lines 34-39, and see also Go et al. figure 1 and col. 1 lines 16-30).

Regarding claim 7, Kurihara discloses storage media stores digital information (see col. 4 lines 37-40). See also Nagasawa's col. 3 lines 53-65, col. 18 lines 23-31 and lines 38-46.

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7. Claims 9, 11, 14, 16, 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kurihara et al. (US Pat. No. 6,442,108) in view of Official Notice and further in view of Nagasawa (US Pat. No. 5, 877, 906).

Regarding claim 9, Kurihara discloses an electronic write protect method for storage media comprising: attempting to record information on a given tape placed in a cassette player (see figure 6); detecting a pre-existing signal from the said given tape (the CPU performs the process shown in figure 6 which includes S1-6 where Kurihara discloses detecting a signal recorded on the tape to determine if the tape is blank or not); and deactivating a record circuit in the said cassette player ( see figure 2, figure 6, S1-06 and S1-13, when the tape is not blank, the data is not recorded at the selected position, Note also that S1-6 and then S1-7 to S1-12 is not processed (not activated) if the tape is not a blank tape, i.e. S17-S1-12 is deactivated).

Claim 9 differs from Kurihara in that the claim further requires the pre-existing signal is a video signal. Although Kurihara does not specifically disclose the tape records/recorded video data, Kurihara discloses an audio data recorded on the tape. Official Notice is taken that it is well known in the art at the time the invention was made to record video signal in tape. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Kurihara by adding a video signal in the tape in order to record moving image data.

Claim 1 further differs from the above combination in that the claim further requires the said deactivating performs at or about a time of occurrence of said detection of said pre-existing signal.

In the same field of endeavor Nagasawa teaches deactivating recording operation at or about a time of detecting pre-existing information signal (see figure 11 steps 306, 310 and 311



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where the prior art teaches deactivating a recording operation when the remaining amount of the video tape of the video tape cassette is the set value X or greater, see also col. 13 lines 20-26 and col. 14 lines 1-13). See also figure 13 steps 362-363, figure 14 steps 405, 407 and 410, figure 15 steps 505, 507 and 508. Therefore in light of the teaching in Nagasawa it would have been obvious to one of ordinary skill at the time the invention was made to modify the above proposed combination by providing a deactivating operation at a time of detecting a pre-existing or pre-set signal in order to avoid loss of data.

Regarding claims 11 and 18, Kurihara discloses attempting to record information is performed by a spinning element (see figure 2, components 15, 27, 29 and 30).

Regarding claims 14 and 21, Kurihara discloses the said video tape stores digital information in magnetic form (see col. 4 lines 37-40).

Regarding claim 16, the limitation of claim 16 can be found in claim 9 above. Therefore claim 16 is analyzed and rejected for the same reasons as discussed in claim 9.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Takayama et al. (US Pat. No. 5, 644, 447) teaches changing the recording state when detecting a value.

Baik et al. (US Pat. No. 6,721,116) teaches warning the user that the tape is not recordable and allowing the user to stop recording after detecting threshold value.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329. The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/  
Examiner, Art Unit 2621  
July 1, 2009

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621